

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Raymond Barto	Team: Team # 4	CCRB Case #: 200900236	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/05/2009 7:30 PM	Location of Incident: 3353 Fort Independence, 52 Pct Stationhouse, and Bronx Central Booking	Precinct: 50	18 Mo. SOL 7/5/2010	EO SOL 7/5/2010	
Date/Time CV Reported Wed, 01/07/2009 3:57 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/07/2009 3:57 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Aida Dolan	22442	945672	052 PCT
2. SGT Julio Delgado	02981	918927	050 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Juan Ventura	26992	943925	050 PCT
2. POM Paolo Ruiz	15316	943763	052 PCT
3. POM Michael Fahy	09004	941727	052 PCT
4. POM Guy Gargano	14100	943281	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Julio Delgado	Force: Sgt. Delgado pointed his gun at § 87(2)(b) at 3353 Fort Independence.	
B.SGT Julio Delgado	Abuse: Sgt. Julio Delgado drew his gun.	
C.SGT Julio Delgado	Discourtesy: Sgt. Julio Delgado spoke obscenely and/or rudely to § 87(2)(b) at 3353 Fort Independence.	
D.SGT Julio Delgado	Abuse: Sgt. Julio Delgado frisked § 87(2)(b) at 3353 Fort Independence.	

Officer(s)	Allegation	Investigator Recommendation
E.SGT Julio Delgado	Abuse: Sgt. Julio Delgado frisked § 87(2)(b) at 3353 Fort Independence.	
F.SGT Julio Delgado	Abuse: Julio Delgado frisked § 87(2)(b) and § 87(2)(b) at 3353 Fort Independence.	
G.POF Aida Dolan	Discourtesy: PO Aida Dolan spoke obscenely and/or rudely to § 87(2)(b) at the 52nd Precinct stationhouse and Bronx Central Booking.	
H.POF Aida Dolan	Discourtesy: PO Aida Dolan spoke obscenely and/or rudely to § 87(2)(b) at the 52nd Precinct Stationhouse and Bronx Central Booking.	
I.POF Aida Dolan	Discourtesy: PO Aida Dolan spoke obscenely and/or rudely to Individuals at the 52nd Precinct Stationhouse.	
J.POF Aida Dolan	Force: PO Aida Dolan used physical force against § 87(2)(b) at Bronx central booking.	

Synopsis

On January 5, 2009, at 7:30 PM, § 87(2)(b) went into 3353 Fort Independence and saw a number of her friends and acquaintances in the lobby of the building, § 87(2)(b) and § 87(2)(b)'s boyfriend, § 87(2)(b). None of these individuals lived in the NYCHA building. An officer, identified as Sgt. Delgado from the 50th Precinct, attempted to stop § 87(2)(b) who fled from the scene. Sgt. Delgado then drew and allegedly pointed his gun at § 87(2)(b) (**Allegations A and B**). Sgt. Delgado then allegedly told everyone to get against the “fucking wall” (**Allegation C**). Everyone got against the wall and Sgt. Delgado frisked the outsides of everyone’s pockets (**Allegations D-F**) and then asked for their IDs and asked whether or not they lived in the building. PO Juan Ventura and PO Guy Gargano, both from the 50th Precinct, arrived and at some point § 87(2)(b) and § 87(2)(b) also arrived and interacted with officers. § 87(2)(b) and § 87(2)(b) were all arrested and § 87(2)(b) was taken into the 50th Precinct with them and released with a disorderly conduct summons. § 87(2)(b) was charged with criminal trespass.

After being taken to Central Booking, where there was no room in the female cells for § 87(2)(b) and § 87(2)(b) they were taken to the 52nd Precinct. On January 6, 2009, during the third tour an officer, identified by § 87(2)(b) as PO Aida Dolan, was assigned to female cells. There were numerous women in the cells and PO Dolan allegedly stated to them “Listen bitches; I will not hesitate to throw water on your faces” (**Allegations G-I**). PO Paolo Ruiz, PO ##### Fahy, and PO Dolan transported nine women to Bronx Central Booking. At Central Booking, PO Dolan allegedly stated to § 87(2)(b) “Shut the fuck up.” PO Dolan also allegedly called her a “scared little pussy bitch,” “a fat piece of shit,” “a cow,” and told her that she was “talking shit” (**Allegation G** continued). § 87(2)(b) then said to PO Dolan, “whatever you fucking cunt” and PO Dolan allegedly grabbed her hair, pushed her head into a door and then slapped her face (**Allegation J**). § 87(2)(b) was then put into a cell by corrections officers.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) gave a phone statement to the CCRB on January 12, 2009 (encl. 3F) and appeared for an interview at the CCRB on January 23, 2009 (encl. 3G-K). Any inconsistencies are noted below. On January 5, 2009, § 87(2)(b) was going to meet her friend, § 87(2)(b) at § 87(2)(b)'s apartment building after getting out of work at 4:00 or 5:00pm. In order to reach § 87(2)(b)'s building, § 87(2)(b) decided to go through the Fort Independence building in order to avoid walking around a large block. Upon going inside, she encountered § 87(2)(b) § 87(2)(b) (identified by this investigation as § 87(2)(b) (identified by this investigation as § 87(2)(b) § 87(2)(b)'s boyfriend, § 87(2)(b) and his cousin. She did not know § 87(2)(b) § 87(2)(b) or § 87(2)(b) well and did not

know their last names. § 87(2) and § 87(2)(b) had been drinking, but were not intoxicated. She and her friends lingered in the 7th floor lobby of the building and then went outside to smoke a cigarette.

When they were going back into the building after smoking, Sgt. Delgado, from the 50th precinct, attempted to stop § 87(2) who ran away when the officer told him to get against the wall. § 87(2)(b) stated that neither she nor any of her friends saw the officer try to stop § 87(2) because they were making jokes and being loud. § 87(2)(b) believed § 87(2) ran because there were warrants out for his arrest. Sgt. Delgado was a Hispanic male, with short flat, black hair. He was in plain clothes, wearing jeans and a blue windbreaker. He was 5'5"-5'6". Sgt. Delgado followed them back into the building and came out from the end of the hallway and pointed his gun at § 87(2)(b)'s head and told everyone to get against the "fucking" wall. § 87(2)(b) asked him why he had to have his gun out. § 87(2)(b) and his cousin, § 87(2)(b) came out of the elevator at this point and Sgt. Delgado told them to get up against the wall as well. Everyone got against the wall and Sgt. Delgado put his gun away and patted the outsides of everyone's pockets and asked them for their ID's and asked them whether or not they lived there. Sgt. Delgado called for other officers to come. He arrested § 87(2)(b) and § 87(2)(b) was taken to the precinct but was not arrested.

They were taken to the 50th Precinct and then to Central Booking where there was insufficient room for § 87(2)(b) and § 87(2)(b). Officers then took § 87(2)(b) and § 87(2)(b) to the 52 Precinct at around 2:00am. § 87(2)(b) was put in a cell with a woman named Alisha, whose last name she did not know. After several hours an officer who she identified as PO Dolan, shield #22442, was assigned to female cells. PO Dolan was a white, female, 5'5", with long reddish brown hair. PO Dolan arrived at about 1:00pm. The arrested women were getting rowdy, yelling, and making ironic, mocking jokes. § 87(2)(b) was put in a cell with § 87(2)(b) who § 87(2)(b) described as a "crackhead." After nearly getting in a fight with this woman, § 87(2)(b) was moved into the cell with § 87(2)(b). § 87(2)(b) rolled up a piece of toilet paper and pretended it was a cigarette and asked PO Dolan to light it, and then threw it at PO Dolan and said "fuck you" to her. In her phone statement, § 87(2)(b) stated that PO Dolan responded to this by saying "This little bitch just threw paper at me." There were three women in the cell next to theirs and § 87(2)(b) and § 87(2)(b) started threatening to fight and hurt them. PO Dolan at one point told all of the women "Listen bitches; I will not hesitate to open this gate and throw water at your faces." In her phone statement, § 87(2)(b) stated that PO Dolan stated to the women in the cells, "I will not hesitate to open this gate and slap you bitches in the face." § 87(2)(b) at several points, cursed at PO Dolan, calling her a "dike bitch," and § 87(2)(b) stood behind § 87(2)(b) and repeated what § 87(2)(b) was saying.

At 8:30 or 9:00pm, a lieutenant came in and told the women that if they wanted to leave there they were going to have to be quiet for a while. They were prepared to be taken back to Central Booking, and were somewhat quieter than before. She and § 87(2)(b) were transported to Central Booking. PO Dolan followed behind them in a patrol car. When they arrived they were taken upstairs. They were told to be quiet and keep to themselves. The women that they had tried to start a fight with were standing behind them and some other women were in front of them in the chain. In her phone statement, § 87(2)(b) stated that PO Dolan said to § 87(2)(b) at Central Booking, "You have fucking problems, you're always smiling." Two uniformed male police officers were standing on the stairs behind where the women were waiting. § 87(2)(b) did not see these officers before seeing them at Central Booking. Both the officers were using cell phones and § 87(2)(b) asked the officers about the phones. PO5 was male, Hispanic, and husky. PO6 was either black or Hispanic with an average build. PO Dolan saw her communicating with these officers and told her to "shut the fuck up." § 87(2)(b) was the next woman up while § 87(2)(b) was getting searched. When PO Dolan was taking her handcuffs off so that she could be checked, § 87(2)(b) was getting angrier and more agitated. PO Dolan pulled on her handcuff and § 87(2)(b) pulled back in the opposite direction. § 87(2)(b) clenched her one unrestrained fist in the air. PO Dolan said "I know you want to hit me. Just do it. I see your lip quivering, you scared little pussy bitch." In her phone statement, § 87(2)(b) stated that PO Dolan said to her, "Go ahead little bitch, fucking punch me."

PO Dolan took off § 87(2)(b)'s handcuff and grabbing § 87(2)(b)'s left arm with one hand, guided, roughly, to stand in front of a gate. PO Dolan stood only inches in front of § 87(2)(b) and continued to taunt her, saying "I know you're scared, you little bitch." The corrections officer asked if she had anything

on her and § 87(2)(b) said no. PO Dolan was standing right in front of § 87(2)(b) only inches away. PO Dolan was cursing at her, telling her that she does not “know when to the shut the fuck up. You’re always talking shit.” She turned her hands perpendicular to her body, pushing PO Dolan a hand’s width away. PO Dolan asked, “why are you touching me?” In her phone statement, § 87(2)(b) stated that PO Dolan said “Did you fucking touch me?” PO Dolan yanked her arm away. The two male officers came towards PO Dolan. After § 87(2)(b) took off her jacket, PO Dolan started to make fun of § 87(2)(b)’s weight, saying, “you must have been made fun of when you were younger. You are a fat piece of shit, you cow. Moo.” § 87(2)(b) was getting very aggravated and told her that “big girls do it better. I am probably fucking your man right now.” When the corrections officer finished checking her, she put her shoes back on. PO Dolan was still calling her a cow and mooing at her. § 87(2)(b) turned around and said “whatever, you fucking cunt.” She took one step towards the door, with the corrections officer guiding her with one hand on her arm, and PO Dolan asked her to repeat herself. § 87(2)(b) did so. PO Dolan, standing behind her grabbed § 87(2)(b) by her ponytail and slammed her head into the door that was next to her. The back left side of her head, behind her ear, hit the door. § 87(2)(b) looked up at PO Dolan and PO Dolan slapped the left side of her face. § 87(2)(b) had a red handprint on her face from the slap and her face was swollen. In response to the slap, § 87(2)(b) stated that she was just about to spit on PO Dolan’s face when the corrections officers, hearing the preparation for this action, pushed her into the cell. § 87(2)(b) the two male officers, the corrections officers, and some of the women in the cells saw PO Dolan hit her. § 87(2)(b) did not have any injuries as a result of this incident.

Results of Investigation

Civilian Statements

§ 87(2)(b)

§ 87(2)(b) was identified as a possible witness through the 52nd Precinct prisoner holding pen roster. § 87(2)(b) contacted the undersigned on May 19, 2009 (encl. 4A). § 87(2)(b) stated that she was in a cell that day but that she was in a cell alone. She was nearby the men's cells and if she tried she could see their cells and could hear them, but there were no women in cells that she saw or heard. § 87(2)(b) was not a witness to the incident.

§ 87(2)(b) asked the undersigned to put in a complaint for her regarding her arrest, which she disputed. The undersigned inputted her complaint, #200907781, and referred it to OCD.

§ 87(2)(b)

On July 7, 2009, § 87(2)(b) contacted the undersigned (encl. 5A). On January 6, 2009, § 87(2)(b) was arrested with her boyfriend at about 7:00 PM. She was put into a cell in the 52nd Precinct with another female. The other female was Hispanic, and in her late twenties or early thirties. § 87(2)(b) did not know her name. In this cell there were no other females. She could not see or hear any other females. She did not interact with any female officers while in the cell. A male officer was watching her cell. The only female officer she interacted with at the 52nd Precinct was the officer that searched her when she came in. She only heard the disputes that were occurring in the male cells.

She was taken to Central Booking with 8-10 other females. They were driven by two male officers. When they arrived at central booking, the male officers stayed there with them. She did not recall any female officers from the 52nd Precinct being present at central booking. She did not recall what any of the other female prisoners were doing while at central booking. She did not recall any dispute between female prisoners. She did not recall any dispute between female prisoners and an officer. She did not hear an officer curse or yell while at central booking. She did not see an officer make physical contact with any female prisoner. She did not see any officer slap a female prisoner in the face.

Attempts to Locate and Identify Additional Witnesses

§ 87(2)(b) did not provide information for § 87(2)(b) or § 87(2)(b) and § 87(2)(b). Numerous contact attempts were made for each of these individuals using information from arrest reports, Lexis Nexis, Cole's, DMV, and White Pages. Each of these individuals was unavailable. § 87(2)(b) provided information for § 87(2)(b) scheduled an appointment with the undersigned for February 9, 2009, for which she did not appear at the CCRB. The undersigned sent numerous letters and left several messages with § 87(2)(b) for her to reschedule her interview but she never returned any of the undersigned contact attempts.

The prisoner holding pen roster indicated that § 87(2)(b) and § 87(2)(b) were likely in the holding cell with § 87(2)(b) and § 87(2)(b) in addition to § 87(2)(b) and § 87(2)(b). The undersigned made numerous attempts to contact each of these women and performed searches with White Pages, Cole's, Lexis Nexis, and DMV for each of them. They did not return any of the undersigned's attempts to contact them. The 52nd Precinct command log indicated that in addition to the females listed above, § 87(2)(b) and § 87(2)(b) were arrested on January 6, 2009, and could have been in the prisoner holding cells and witnessed the alleged misconduct in the cells. Numerous attempts were made to reach § 87(2)(b) and § 87(2)(b) but neither returned any of the undersigned's contact attempts.

Officer Identification

§ 87(2)(b) identified Sgt. Delgado and PO Dolan by name. PO Ventura and PO Gargano were the arresting officers of § 87(2)(b) and her friends. PO Fahy and PO Ruiz transported § 87(2)(b) and § 87(2)(b) to Bronx Central Booking.

Officer Statements

Sgt. Julio Delgado

Sgt. Julio Delgado appeared for an interview at the CCRB on September 24, 2009 (encl. 6A-F). Sgt. Delgado is a § 87(2)(b)-old Hispanic male, 5'11", 205 lbs, with brown hair and brown eyes. Sgt. Delgado was a sergeant in the 50th Precinct at the time of the incident. He has since then been promoted to lieutenant and transferred to the 33rd Precinct. On January 5, 2009, he worked from 2:50 PM to 11:47 PM as Impact supervisor. He was working with PO Guy Gargano and PO Juan Ventura. He was in plainclothes but did not recall what he was wearing. He was in an unmarked vehicle, #§ 87(2)(b). He did not recall what the make or model of the vehicle.

Memo book entries:

19:44- five people under at 3353 Fort Independence for disorderly conduct, criminal trespass, CPCS and CPM.

At about 7:30 PM on January 5, 2009, Sgt. Delgado drove by 3353 Fort Independence. The building had an entrance with a long sidewalk leading up to the entrance that had large window panes that allow passers-bys to see into the lobby of the building. There were frequently drug sales in the lobby of this building. There had been lookouts all over the building and also in the building behind 3353 Fort Independence. In the case that a lookout saw an officer in uniform or a marked RMP, they set the elevator alarms off. The lobbies of the buildings then typically empty out. The drug dealers in this building had forged firemen's keys to gain control of and lock the doors to the elevators located in the lobby. Sgt. Delgado found that the best way to counter this problem is to surreptitiously ascend the stairs of the building behind 3353 Fort Independence to the seventh floor and enter the lobby from the back. He could not take the elevator because a lookout could have seen him and locked him in the elevator. Ascending the stairs is dangerous in the building because drug deals often occur there. On this day, when Sgt. Delgado drove by the building he looked into the large windows of the front entrance to 3353 Fort Independence and saw that there were several people there. Sgt. Delgado suspected that these individuals may have been dealing drugs or smoking marijuana, as frequently happens in the lobby of the building. He instructed PO Gargano and PO Ventura to wait while he went up the stairs and that they should enter from the Fort Independence side.

Sgt. Delgado then went around back to the Bailey Avenue entrance to the building behind 3353 Fort Independence and ascended the stairs to the seventh floor. When he got to fifth or sixth floor he radioed to PO Gargano and PO Ventura to come in the Fort Independence entrance. Sgt. Delgado saw about seven individuals with clear plastic cups with clear liquid in them. There was also tobacco all over the floor but he did not know if they had been rolling cigarettes or it was left behind by someone else. There were two females and a several males in a small alcove in the lobby. He suspected their cups contained alcohol. There were no alcohol bottles around the individuals or in any of the individuals' possession. Sgt. Delgado was alone at this point. He told them to get against the wall and took out his firearm. Sgt. Delgado could not stop all of the individuals by himself without his firearm. One of the individuals, a tall black or Hispanic male, started moving slowly towards the door and then walked out the front entrance of the building, despite the fact that Sgt. Delgado had his gun drawn at this point. Sgt. Delgado had to issue stern commands to this individual. Sgt. Delgado indicated with his hands that he held the gun down and as the individual walked away, he pointed it. This motion was not spoken into the record. Sgt. Delgado did not tell this individual or any of the individuals to "get against the fucking wall." The individual ran away. The front entrance to the building was completely open and any of the individuals could have gotten out that way. Sgt. Delgado told everyone else to get against the wall. The individuals all took their time to get to the wall and were reluctant to be the first one to comply with Sgt. Delgado's command. They shuffled to the wall. They did not keep their hands on the wall despite him having told them to do so. Some of them were turning around to ask what was going on. This gave him cause to fear for his safety because he had to divert his attention to one person that was moving around on the wall and could not tell what was happening with the other individuals. As he was by himself the situation could potentially have been dangerous. He had to tell them multiple times to get against the wall. They were arguing with him about a host of things and were not being compliant. Sgt. Delgado did not need to yell at them because it was a closed confined area and that most of the individuals were familiar with him.

Once they were against the wall, they were under arrest for criminal trespass as well as open containers. He had seen some of the individuals before and knew that they did not live in the building. He knew § 87(2)(b)'s brother, a marijuana dealer who frequents 3353 Fort Independence, although he himself did not live there. He described § 87(2)(b) as a "little loopy." § 87(2)(b) when against the wall, grabbed something from § 87(2)(b) put her hand into her purse. Sgt. Delgado told her to get her hands out of her purse.

At this point PO Gargano and PO Ventura came up from behind him from the back entrance to Fort Independence, even though they were instructed to come into the building from the front. Sgt. Delgado put his firearm back into his holster just after PO Ventura and PO Gargano arrived. Sgt. Delgado immediately told the officers that § 87(2)(b) had something in her purse and that they should go to her. Sgt. Delgado did not have to give any instructions to the officers because he felt that they basically knew what they had to do. They took the individuals IDs. Sgt. Delgado spoke with the individuals to see what they were doing and why. None of them lived in the building but some had relatives or friends in the building. One of the individuals told Sgt. Delgado when he spoke with them that they had been drinking. None of the individuals appeared to be drunk. The officers then frisked the individuals. Sgt. Delgado did not know if he frisked anyone and did not know how the officers frisked the individuals. He did not know how the officers found cocaine. When one of the officers looked into § 87(2)(b)'s purse they found numerous bags of marijuana packaged for sale.

There were people coming in and out of the building. There were no additional people in the lobby before they were handcuffed. One individual, identified as § 87(2)(b) on this date came down from the elevator and became upset that § 87(2)(b) who he stated was his brother in law, was being stopped and searched. § 87(2)(b) was becoming belligerent too close to the scene and was becoming too involved. More people arrived as well and § 87(2)(b) started inciting those people. At this point Sgt. Delgado had to place § 87(2)(b) under arrest for disorderly conduct. He was later released from the stationhouse with a summons.

Four people were arrested. One person was issued a summons for disorderly conduct. He did not recall who handcuffed the individuals. They found marijuana on one of the females, identified by this

investigation to be § 87(2)(b) and cocaine on one of the males, identified by this investigation to be § 87(2)(b)

PO Juan Ventura

PO Juan Ventura appeared for an interview at the CCRB on September 3, 2009 (encl. 7A-G). PO Ventura is a § 87(2)(b)-old Hispanic male, 6'2", 220 lbs, with brown hair and brown eyes. On January 5, 2009, PO Ventura was assigned to impact/conditions with PO Guy Gargano from 3:00PM to 11:35 PM. He was in uniform and was assigned to unmarked RMP #8218.

Memo Book:

19:44 92x2

§ 87(2)(b) Crim Tres/CPM

§ 87(2)(b) DOB: § 87(2)(b)

§ 87(2)(b) Crim Tres

§ 87(2)(b) DOB: § 87(2)(b)

I/O 3353 Ft Independence St

03:35 EOT (4 hrs OT)

Arrest Report/OLBS #§ 87(2)(b) (encl. 13C)

§ 87(2)(b) was arrested by PO Ventura at 7:44 PM on January 5, 2009 at 3353 Fort Independence. She was charged with criminal trespass. The narrative states that "at the place of occurrence defendant was observed trespassing in NYC public housing building without permission or consent to be in the building."

Arrest Report #§ 87(2)(b) (encl. 13F)

§ 87(2)(b) was arrested by PO Ventura at 7:44 PM on January 5, 2009 at 3353 Fort Independence. She was charged with criminal trespass and possession of marijuana. The narrative states that "at the place of occurrence defendant was observed trespassing in a NYC public housing building. Defendant was also observed possessing a change purse containing nine small bags of marijuana in plain view public view. Informed by Sgt. Delgado, shield #2981."

Sgt. Delgado went into 3353 Fort Independence to check the lobby area. PO Ventura and PO Gargano were waiting outside of the building for a couple seconds. Sgt. Delgado called both PO Gargano and PO Ventura into the building over the radio, saying that he had individuals stopped. He did not give any further information over the radio. Sgt. Delgado was alone so both PO Gargano and PO Ventura went into the building. There were four or five individuals stopped, standing against the wall, and Sgt. Delgado was watching them. Neither Sgt. Delgado nor PO Gargano had their guns drawn or pointed and PO Ventura did not see either of them do this at any point. He was also talking with them, but PO Ventura could not recall what he was saying to them. PO Ventura did not see how Sgt. Delgado stopped the individuals. PO Ventura had not previously seen any of the individuals outside of the building. The males stopped were loud and rude. § 87(2)(b) and § 87(2)(b) were both calm and cooperative. Sgt. Delgado told him that one individual got away. Sgt. Delgado then told him and PO Gargano to check the individuals for weapons but not give any specific reason why he thought any of the individuals might have had weapons. Sgt. Delgado did not tell him anything else about the situation or issue any directions to PO Ventura or PO Gargano.

PO Ventura focused on § 87(2)(b) and § 87(2)(b) while Sgt. Delgado and PO Gargano spoke with the males, § 87(2)(b) and § 87(2)(b). PO Ventura did not hear any of the interactions between PO Gargano, Sgt. Delgado, and the individuals stopped. His attention was fixed only on § 87(2)(b) and § 87(2)(b). PO Ventura asked § 87(2)(b) and § 87(2)(b) what was going on and what they were doing. He asked them for ID, but could not recall whether or not they complied with his request. Any ID that they gave him stated that they did not live in the building. When he saw that the

females did not live in the building, he intended to arrest them. Neither female tried to escape nor did PO Ventura have to restrain them physically, aside from putting them in handcuffs. The undersigned showed him the arrest reports of § 87(2)(b) and § 87(2)(b) both filed by him, that state that physical force was used against both females to prevent escape. PO Ventura stated that this force referred to putting them in handcuffs and that he was mistaken about what force was. There was no force used and no one tried to escape.

PO Ventura told the women to put their hands on the wall so that he could frisk them. He initially stated that he frisked them immediately after asking what they were doing, but then later added that he asked for their IDs beforehand. All of the officers told them, at the same time, to put their hands on the wall. They complied with PO Ventura. He did not have to issue any stern commands for them to get against the wall. PO Gargano and Sgt. Delgado did not argue with the any of the males. They were not compliant and were being tumultuous.

Neither he, nor PO Gargano or Sgt. Delgado, told any of the individuals to “get against the fucking wall.” PO Ventura frisked the two women because he did not know if they had anything. He did not know if there was anything that made him think that he needed to frisk them. He stated that he always frisks everybody to make sure they have no weapons. He then stated that he always asks for ID’s and then frisks people. When asked whether or not he had intended to arrest them after asking for ID, PO Ventura stated that he did not intend to arrest them for trespassing because he did not know yet that they were trespassing. He did, however, intend to arrest § 87(2)(b) for possession of marijuana. This is inconsistent with his statement that he asked for ID before he frisked § 87(2)(b) and § 87(2)(b) and searched § 87(2)(b)’s bag. § 87(2)(b) had an opened pocketbook on the ground next to her foot. Inside the pocketbook, in plain view, was marijuana. PO Ventura did not frisk the bag prior to searching it because the marijuana was in plain view. He took out the marijuana and then searched for any weapons she might have in the bag. There were none. PO Ventura saw Sgt. Delgado and PO Gargano frisk the males. When asked why the males were frisked he stated that Sgt. Delgado and PO Gargano frisked the males because when there are drugs present, there are often weapons. He then stated that they were frisked before he found the marijuana. He did not suspect that they had weapons. He stated that it was believed that they were trespassing and they were littering, so the individuals were all frisked. § 87(2)(g)

PO Ventura put handcuffs on the females, who were compliant. After PO Ventura found the marijuana he told Sgt. Delgado who authorized the arrest of all of the individuals. He stated that he could not have told Sgt. Delgado that they could be arrested before finding the marijuana, although he again stated that he asked for ID and then frisked them. Neither of the other officers indicated that they had found any contraband on any of the males until afterwards.

No other officers were present when the individuals were stopped, frisked, and arrested. He did not transport them to the stationhouse and did not know who did. One of the individuals was released at the location because he actually lived there but the rest of them were taken to the stationhouse. Some of the individuals that were taken to the stationhouse were issued summonses, but he did not know how many.

PO Ventura took them to Central Booking and then to the 52nd Precinct. § 87(2)(b) and § 87(2)(b) were happy to be at the 52nd because they could relax. He did not recall if PO Dolan was present at the 52nd Precinct. They did not stay for long at the 52nd Precinct. He did not speak with the two women while they were in the cell. He did not hear any female officer call § 87(2)(b) “a bitch.”

PO Guy Gargano

PO Guy Gargano, from the 50th Precinct, appeared for an interview at the CCRB on September 3, 2009 (encl. 8A-E). PO Gargano is § 87(2)(b)-old white male, 6’0”, 195 lbs, with brown hair and brown eyes. On January 5, 2009, PO Gargano was assigned to impact/conditions and was working with PO Ventura from 3:00 PM to 3:35 AM on January 6, 2009. He was in uniform and assigned to unmarked RMP #8218.

Memo book entries:

19:40- Two Males stopped 3353 Fort Independence

19:44- Two under
03:35- EOT

Arrest Report/OLBS #§ 87(2)(b) (encl. 13D)

§ 87(2)(b) was arrested by PO Gargano at 7:44 PM on January 5, 2009, at 3353 Fort Independence. He was charged with false personation. The narrative states that “at the place of occurrence defendant upon issuance of a summons stated he had no identification. Upon questioning at stationhouse for pedigree information, defendant did knowingly give arresting officer false name and date of birth.”

Arrest Report #§ 87(2)(b) (encl. 13E)

§ 87(2)(b) was arrested by PO Gargano at 7:44 PM on January 5, 2009, at 3353 Fort Independence. He was charged with criminal possession of a controlled substance. Cocaine was vouchered for him. The narrative states that “At the place of occurrence defendant was found to be in possession of a controlled substance (two bags of alleged cocaine).”

PO Gargano and PO Ventura were on patrol outside of 3353 Fort Independence, a NYCHA building. Sgt. Delgado was in 3353 Fort Independence. Sgt. Delgado called PO Ventura and PO Gargano into the building because he had individuals stopped inside of the lobby. He did not recall how Sgt. Delgado communicated with them that they should go into the building. There were five or six civilians, both males and females, stopped by Sgt. Delgado. The individuals were standing in a line voluntarily and nobody was trying to escape, although they were moving around by shifting their weight. They appeared to be anxious. They were standing amongst litter and open alcohol containers. He could neither recall how many alcohol containers there were nor whether or not anybody was holding the containers. PO Gargano did not initially know if they were stopped for open alcohol containers, but then stated that they were stopped for open alcohol containers and loitering in the lobby. Sgt. Delgado was speaking with the civilians when they walked into the building but PO Gargano could not recall what Sgt. Delgado was saying. The civilians, both males and females, were cursing, saying things such as “This is bullshit” and “Fuck this.” Sgt. Delgado was not making any physical contact with any of the civilians when PO Gargano walked into the building. Sgt. Delgado did not issue any directives for PO Gargano and PO Ventura. PO Gargano spoke with two of the males, § 87(2)(b) and § 87(2)(b). PO Gargano asked the two males for ID. § 87(2)(b) provided his information verbally. As he was unable to provide an ID, PO Gargano intended to take him into the stationhouse. PO Gargano put him in handcuffs. PO Gargano initially did not recall if § 87(2)(b) provided ID, but then later stated that he did. He did not know when he put § 87(2)(b) in handcuffs and did not recall the circumstances that led to his arrest. PO Ventura stopped a number of civilians as well, but PO Gargano did not know who they were. He did not know who spoke with the females. His attention was focused on the individuals he had stopped and did not pay attention to anything that PO Ventura was doing with the individuals he had stopped.

PO Gargano frisked both § 87(2)(b) and § 87(2)(b) for his own safety. He could not recall whether or not he frisked § 87(2)(b) and § 87(2)(b) before or after he asked them for identification. He did this in case they had weapons. He did not believe that they had weapons but he thought that it was a possibility. He did not fear for his safety. He did not see PO Ventura or Sgt. Delgado frisk any of the civilians. He did not see any of the individuals that Sgt. Delgado or PO Ventura were speaking with try to flee. He did not see PO Ventura or Sgt. Delgado arguing with any of the individuals at any point. PO Ventura or Sgt. Delgado did not use any discourteous language to issue commands to any of the civilians. The individuals complied with some of the commands that they issued, but not others. They did not comply with any commands to lower their voices. He did not recall if he ever commanded them to stand against the wall. He did not recall if they were frisked against the wall. He did not know if PO Ventura or Sgt. Delgado frisked any of the individuals while they were against the wall. He did not tell them “Get against the fucking wall,” nor did he hear PO Ventura or Sgt. Delgado make this statement. PO Gargano did not draw

or point his gun at any point. He did not see Sgt. Delgado or PO Ventura draw or point their guns at any point.

He did not recall if any other officers were present during this incident and did not recall if he transported them to the stationhouse.

§ 87(2)(b) was arrested for criminal possession of a controlled substance, which PO Gargano believed to be cocaine. He did not recall where the cocaine was found. He did not know if it was found at the scene or at the stationhouse. When asked why § 87(2)(b) was taken into the stationhouse, he stated that he did not know if he found the cocaine at the scene or the stationhouse. § 87(2)(b) gave a false name at the stationhouse and was charged for false personation and also issued a summons.

The undersigned showed PO Gargano a summons for disorderly conduct that he issued to § 87(2)(b) at the date, time, and location of the incident. PO Gargano did not recall writing the summons. He did not recall interacting with § 87(2)(b). He stated that he may have issued the summons for blocking pedestrian traffic. The summons shows that § 87(2)(b) lived in the building. He did not recall whether Sgt. Delgado or PO Gargano interacted with § 87(2)(b).

He did not interact with the females at the stationhouse. He did not hear anything about their behavior at the stationhouse. He brought them to Central Booking and then to the 52nd Precinct. He was only at the 52nd Precinct for a few minutes. He did not hear any of their interactions with officers there. The women appeared calm there. The women were lodged at the 52nd Precinct and then taken back to Central Booking. He was not aware of any incidents occurring at the 52nd Precinct or Central Booking. He did not recall any officer calling either of the females “a bitch.”

PO Aida Dolan

PO Aida Dolan appeared for an interview at the CCRB on October 6, 2009 (encl. 9A-D). PO Dolan is a white female, 5’6”, with brown hair and hazel eyes. On January 6, 2009, PO Dolan was assigned to female cells at the 52nd Precinct. She was working alone and was in uniform. She worked from 2:00 PM to 10:35 PM. Her memo book entries for the day are:

15:00 Present for duty
21:00 Transport 9 females to CB van #4289
22:35 EOT

PO Dolan had no independent recollection of January 5, 2009. She did not recall any incidents with any prisoners on that date. She did not recall if any of the females were arguing or fighting. She stated that that is typical prisoner behavior and that she dealt with that all the time. She did not recall female prisoners cursing at her and stated that that could have happened did because it occurred with some frequency. She did not take it personally. She had no recollection of any prisoners interacting with her on this date. She did not recall prisoners asking for cigarettes on this date specifically. She did not tell the women that she was going to open the gate and throw water on their faces. She did not recall women in one cell fighting with women in another cell. She did not recall any incident at Central Booking. She had no independent recollection of anything that occurred at Central Booking. Although she had no recollection of the date of incident, she denied having used any discourteous language with any prisoner and denied pushing a prisoner’s head into a door and slapping her face.

PO Dolan, when shown a photograph of § 87(2)(b) taken at the CCRB on January 26, 2009, did not recognize § 87(2)(b). PO Dolan did not recognize § 87(2)(b) from her arrest photo.

PO § 87(2)(b) Fahy and PO Paolo Ruiz

PO § 87(2)(b) Fahy and PO Paolo Ruiz, from the 52nd Precinct, appeared for a CCRB interview on August 27, 2009 (encl. 10A-11E). PO Fahy is a white male, 6’0”, 230 lbs, with brown hair and blue eyes. PO Ruiz is a § 87(2)(b)-old Hispanic male, 6’1”, 285 lbs, with black hair and black eyes. PO Ruiz and PO Fahy

worked from 3:00 PM to 11:35 PM and they were assigned to sector AB and marked RMP #1204. They were both in uniform.

PO Fahy's relevant entry is:

18:00 See recorder.

PO Ruiz's relevant memo book entries are as follows:

17:50 44 at 183rd St

17:55 84

20:10 91 by FD

21:00 Escort 9 females to CB

21:50 1 Male stopped at § 87(2)(b)

PO Fahy did not recall transported prisoners to Central Booking and had no independent recollection of the date. The undersigned presented PO Fahy with the Central Booking Prisoner Intake Log, which stated that he and PO Ruiz transported nine female prisoners to Central Booking at 9:27 PM. PO Fahy acknowledged that he must have transported the female prisoners, but did not recall doing so. He did not recall PO Dolan being present and did not recall any officers using discourteous language or force at Central Booking. PO Ruiz recalled PO Dolan being present but did not recall any specific conversations between PO Dolan and any civilians and did not recall any specific language used. He did not recall PO Dolan pushing a civilians head into a door or slapping a civilian. PO Dolan left with PO Fahy and PO Ruiz. Neither officer recognized photographs of § 87(2)(b) or § 87(2)(b)

Communications Records

SPRINT #§ 87(2)(b) (encl. 12A-B)

On January 5, 2009, at 7:44 PM, a sergeant resumed patrol and conditions arrested six people and verified their arrests at 3353 Fort Independence in the Bronx.

Police Documents

Summons #§ 87(2)(b)-7(encl. 13G)

PO Gargano issued § 87(2)(b) a summons for disorderly conduct, subsection 5, at 7:44 PM on January 5, 2009 at 3353 Fort Independence.

50th Precinct 250 Log (14A)

There were no additional stops made by Sgt. Delgado, PO Ventura, or PO Gargano at the time of the incident notated in the 250 log. They did not file 250s for any individuals stopped at 3353 Fort Independence.

50th Precinct Command Log (encl. 19A-F)

At 7:55 PM PO Gargano entered § 87(2)(b) and § 87(2)(b) into the command log. He entered § 87(2)(b) at 8:00 PM. § 87(2)(b) and § 87(2)(b)'s physical conditions were apparently normal while PO Gargano wrote that § 87(2)(b)'s physical condition was "tumultuous." PO Ventura entered § 87(2)(b) and § 87(2)(b) at 8:00 PM. Their physical conditions were apparently normal.

52nd Precinct Command Log (encl. 20A-I)

At 2:40 AM on January 6, 2009, § 87(2)(b) and § 87(2)(b) were moved to the female cells in the 52nd Precinct.

50th Precinct Tour 3 Roll Call (encl. 16A-G)

On January 5, 2009, Sgt. Delgado and PO Ventura were assigned to RMP # 8218. Sgt. Delgado was assigned as conditions sergeant and PO Ventura was assigned to impact. PO Gargano is not listed on the roll call.

52nd Precinct Tour 3 Roll Call (encl. 17A-J)

On January 6, 2009, PO Aida Dolan was assigned to the female cells from 2:00 PM to 10:30 PM. PO Ruiz and PO Fahy were assigned to RMP #5772 together from 3:00 PM to 11:35 PM.

Central Booking Intake Log (encl. 20H)

On January 6, 2009, PO Fahy and PO Ruiz transported nine females from the 52nd Precinct to Central Booking. No medical attention was required or requested.

Criminal Conviction History

§ 87(2)(b)

Civilian CCRB History

§ 87(2)(b) has not filed any other complaints with the CCRB.

Substantiated Allegations that resulted in the Imposition of Discipline

In his 12 years, Sgt. Delgado has had no allegations substantiated by the CCRB. In her one year tenure, PO Dolan has had two allegations substantiated against her by the CCRB, case #200812925. Charges were imposed on her by the NYPD. The allegations were discourteous language and a retaliatory summons.

Conclusions and Recommendations

Pleading of Allegations

An allegation of “gun drawn” is being pleaded against Sgt. Delgado because he drew his gun to forcibly stop § 87(2)(b) at 3353 Fort Independence. A gun pointed allegation is being pleaded against Sgt. Delgado because § 87(2)(b) alleged that Sgt. Delgado pointed his gun at § 87(2)(b). An allegation of gun drawn is being pleaded against Sgt. Delgado because he drew his gun. § 87(2)(b) alleged that Sgt. Delgado told her and her friends to get “against the fucking wall.” An allegation of discourtesy is being pleaded against Sgt. Delgado. § 87(2)(b) alleged that Sgt. Delgado frisked them immediately after they stood against the wall and before he asked for ID. An allegation of frisk is therefore being pleaded against Sgt. Delgado. Discourtesy allegations are being pleaded at PO Dolan for allegedly using profanity both in the 52nd Precinct holding cell area and Bronx Central Booking against § 87(2)(b) and individuals. Allegations of force are being pleaded against PO Dolan because § 87(2)(b) alleged that PO Dolan pushed her head into a wall and then slapped her face.

Undisputed Facts

It is undisputed that Sgt. Delgado stopped § 87(2)(b) and her friends by drawing his gun. It is undisputed that Sgt. Delgado told the individuals to get against the wall. It is undisputed that one civilian ran away when Sgt. Delgado tried to stop him. It is undisputed that all of the individuals apprehended, with the exception of § 87(2)(b) did not live in 3353 Fort Independence.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) [Redacted text block]

§ 87(2)(b), § 87(2)(g) [Redacted text block]

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegations Not Pleaded

PO Ventura stated that he searched § 87(2)(b)'s bag and found marijuana. Sgt. Delgado stated that he pointed his gun at "§ 87(2)(b) the individual that fled from the scene. As § 87(2)(b) did not allege that Sgt. Delgado did this, an allegation of gun pointed at "§ 87(2)(b) is not being pleaded against Sgt. Delgado. An allegation of gun pointed is also not being pleaded with any other individuals as its victim because § 87(2)(b) alleged that Sgt. Delgado pointed his gun only at § 87(2)(b). A stop is not being pleaded against Sgt. Delgado because a stop is subsumed in the gun drawn allegation. § 87(2)(b) did not allege that PO Ventura searched § 87(2)(b)'s bag so an allegation of a search of § 87(2)(b) is not being pleaded against PO Ventura. Although PO Ventura and PO Gargano both admitted to having frisked the individuals in the lobby of 3353 Fort Independence, § 87(2)(b) did not allege that officers that arrived after Sgt. Delgado performed any frisks.

Allegation A: Sgt. Julio Delgado pointed his gun at § 87(2)(b) at 3353 Fort Independence.

§ 87(2)(b) did not have § 87(2)(b) contact information. The undersigned sent two letters to § 87(2)(b) one of which was returned. On July 31, 2009, the undersigned called a possible phone number provided by Lexis Nexis and found that it was a wrong number. § 87(2)(b), § 87(2)(g)

Allegation B: Sgt. Julio Delgado drew his gun at 3353 Fort Independence.

It is undisputed that Sgt. Delgado drew his gun to stop the individuals in the lobby of 3353 Fort Independence. As there were a number of individuals loitering in the lobby of a NYCHA building, Sgt. Delgado, some of whom Sgt. Delgado had interacted with before and knew did not live in the building, he had reasonable suspicion to stop the individuals in the lobby. "A MOS is permitted to use reasonable force to stop and question a subject. The subject is not free to walk away. The type and amount of physical force used must ultimately be objectively reasonable under the attendant circumstances facing the MOS" (encl 1A). In this situation, Sgt. Delgado was alone and stopping a group of people. § 87(2)(b), § 87(2)(g)

Allegation C: Sgt. Delgado spoke rudely to § 87(2)(b) at 3353 Fort Independence.

§ 87(2)(b), § 87(2)(g)

Allegation D: Sgt. Julio Delgado frisked Krystal § 87(2)(b) at 3353 Fort Independence.

§ 87(2)(b) alleged that Sgt. Delgado frisked her when he stopped her and her friends in the lobby of 3353 Fort Independence. § 87(2)(b), § 87(2)(g)

According to Kamins, if a police officer, when questioning people in public places, “reasonably suspects that he is in danger of physical injury, he may search such person for a deadly weapon” (encl. 1B). § 87(2)(g)

Allegation E: Sgt. Julio Delgado frisked § 87(2)(b) at 3353 Fort Independence.

As § 87(2)(b) missed an appointment and the undersigned made numerous phone calls and sent a number of letters to § 87(2)(b) § 87(2)(g)

Allegation F: Sgt. Julio Delgado frisked § 87(2)(b) and § 87(2)(b) at 3353 Fort Independence.

The undersigned sent two letters to § 87(2)(b) one of which was returned. A search of DMV, White Pages, Lexis Nexis, and Coles found no additional addresses or phone numbers for § 87(2)(b) As discussed under Allegation A, the undersigned was also unable to contact § 87(2)(b) § 87(2)(g)

Allegation G: PO Aida Dolan spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Dolan used discourteous language all throughout their interactions at the 52nd Precinct and Central Booking. § 87(2)(b) who was transported with § 87(2)(b) and § 87(2)(b) did not recall any incident between a female officer and a prisoner. § 87(2)(b) was uncooperative with the investigation and the remainder of the prisoners were unavailable. PO Dolan had no recollection of the date of incident and stated that she did not use any discourteous language with any prisoners. § 87(2)(g)

Allegation H: PO Aida Dolan spoke rudely to § 87(2)(b)

As discussed in Allegation E, § 87(2)(b) was uncooperative with the investigation. § 87(2)(g)

Allegation I: PO Aida Dolan spoke rudely to individuals in the 52nd Precinct Stationhouse.

§ 87(2)(b) alleged that PO Dolan said to the female prisoners in the holding cells, “Listen bitches, I will not hesitate to throw water at your faces.” The undersigned sent numerous letters to each female prisoner indicated by either the prisoner holding pen roster or the command log at the 52nd Precinct. The undersigned checked DMV, Lexis Nexis, and White Pages for each of the eight women that were possible victims of this allegation. It is unknown at what time PO Dolan allegedly made the comment and as the undersigned was unable to contact all of the female prisoners it is unknown who was in the cells at that time. § 87(2)(g)

Allegation J: PO Aida used physical force against Krystal § 87(2)(b) at Bronx Central Booking.

§ 87(2)(b) alleged that PO Dolan grabbed her hair, slammed her head into a door, and then slapped her face. As stated above, § 87(2)(b) had no recollection of any incident occurring at Central Booking. No other witnesses provided statements to the CCRB. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: